

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

Nadine Gazzola, individually, and as co-owner,
President, and as BATFE Federal Firearms Licensee
Responsible Person for **Zero Tolerance**
Manufacturing, Inc.; *et al.*

Civ. No.: 1:22-cv-1134 (BKS/DJS)

Plaintiffs

v.

KATHLEEN HOCHUL, in her Official Capacity as
Governor of the State of New York; *et al.*

Defendants

**DECLARATION OF PLAINTIFF
JOHN A. HANUSIK – AGA SALES**

1. I am John A. Hanusik and I make this Declaration under penalties of perjury. These statements are true to the best of my knowledge, and are based upon my personal knowledge and experience unless otherwise specified.
2. I oppose all laws complained of in this case. I submit this “Declaration” to bring forward certain of my background, credentials, employment, licenses, and relevant experience. I reserve the right to submit such further declarations, testimony, and exhibits as may be necessary to support our claims.
3. Footnotes within this document that provide citation of law are inserted by Counsel. I attest that I am, independent of Counsel and prior to this lawsuit, familiar with such laws, as stated, discussed, and argued herein. Legal citations are being provided as a courtesy to the Court due to the complexity of this case.

4. I am not a “disqualified person,” as this term is defined under 18 U.S.C. §922(g).
5. I am the sole proprietor of “AGA Sales,” a dba in New York. The business premises is located in Catskill, Greene County, New York.
6. I am the “Responsible Person”¹ for a Federal Firearms License, Type-01, Dealer in Firearms. I got my FFL when I was 19-years old. Over the years, I have both discontinued and refiled for the FFL, as I have moved through a few different businesses, including auctioneering and antiques. I have been in business for over 50 years. I became an FFL for sporting purposes, such as the joy of hunting, and, also, because I have always collected older shotguns.
7. I have a comparable license from New York State, issued through Greene County.
8. I have also a NYS Sales Tax number for the collection and reporting of sales tax.
9. In addition to my business inventory, I also own personal firearms of all types.² And I have, since 1977, had an unrestricted concealed carry permit issued by Greene County. My NY permit contains a complete listing of the handguns I currently, personally own.
 - a) Prior to September 1, 2022, Greene County offered hunting safety and pistol permit courses. I am not aware of anyone offering a training course at this time.

¹ “Responsible Person” is defined by BATFE on Form 7, “Definitions,” as “In addition to a Sole Proprietor, a Responsible Person is, in the case of a Corporation, Partnership, or Association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management, policies, and practices of the Corporation, Partnership, or Association, insofar as they pertain to firearms.”

² Attorney of Record note: I am not providing the detail level in these public documents as is available from the Co-Plaintiffs in the interest of their personal safety.

- b) When I obtained my concealed carry permit, back in 1977, no training course was required as part of the application process.
- 10. I have used firearms for approximately fifty years. I started hunting when I was 14-years old, but was introduced to it at a younger age.
- 11. I am a member of the National Rifle Association and of GOA-NY.
- 12. I am also a member of the Coxsackie Sportsman Club.
- 13. **FFL Dealer in Firearms.** Probably 98% of the long guns I sell are traditional hunting rifles and shotguns, about 1% are AR/AK/“tactical” firearms, and about 2% are handguns. Sales in firearms at A.G.A. Sales are down 40%-50%.
- 14. Approximately 45% of my gross annual revenue is from ammunition sales. Ammunition sales are down about 20% over the average of the prior five years.
- 15. My current shop has been open about fifteen years. It's 24x24 sq.ft. My retail building is adjacent to my home. When you have an FFL, it means the ATF can go through your entire premises. I have an alarm system to the shop, bars on the windows, a door that locks from the outside. Each firearm I'm selling right now has a lock of some sort in place.
- 16. My business premises is my safe: it's a building with bars, alarms, cameras. There is no way I can convert my floor space to accommodate safes large enough to hold my firearms inventory and then go in and out of it twice daily. I do not have a video monitoring system with recording device that will match the new rules. I do have an alarm system for the premises.

- a) The new laws offer no relativity for the physical size, property type, inventory level, or gross sales and income of the owner.

- b) The new laws also give no credit for years of good service and work with the federal ATF and FBI.

17. Customers are coming in daily for advice on the new laws. My whole family is into politics and law. I speak with the Sheriff. I am friends with the Greene County District Attorney. I spent a couple weeks at the NYS Police in August and they told me I know more about what's going on than they do; they have no idea what's going on. All that I can tell anyone is be concerned, be aware, and if you hear something let me know.

18. I do not sell lower receivers.

19. I do not sell body armor.

20. I also offer for sale scopes, scope mounts, knives, cleaning kits, and gun cases.

21. I do not offer NYS DEC hunting or fishing licenses.

22. **BATFE vis-à-vis NYSP: No Contest.** At this point in my career in the firearms industry, I only have need to contact BATFE about once a year. I use the website, and consider it a useful source of information.

23. In all these years, my shop, fortunately, has never been burglarized or suffered an employee theft. I haven't ever received an ATF firearms trace request, nor have I had a law enforcement or ATF officer show up with a warrant to review any of my federal firearms compliance records.

24. Across the years since 1968, the federal government has developed laws and guidelines. The Defendants are now trying to mimic that system without any real way to support the activities they're trying to get into. Even just on a basic communications level, the Defendants don't send anything in written. You would assume the possibility of a formal

letter to all FFLs stating the Dos and Don'ts, if they don't want you to do anything wrong. Instead, I call the NYS Police and they're not sure what they're supposed to do. The Defendants are trying to overreach their bounds and do federal work. The better approach would be for them to yield to the federal system, which more reflects the inter-state commerce of the firearms industry. The State could help by submitting its criminal records to NICS. The State could help by supporting FFLs who operate here by treating us as part of the barrier against illegal sales of firearms.

25. The simplest example I can point to is the ammunition background check. It's illegal for a third party to try to use the NICS system for a purpose other than a gun purchase background check by an FFL. It's a simple law. It keeps everyone in their lane.
 - a) Governor Cuomo tried the same thing in the "SAFE Act" and ended up having to call it off through the "Memorandum of Understanding." (Attached to this Motion as an Exhibit.)
 - b) Defendant Gov. Hochul comes in, is in office about a year, and she says the past doesn't matter, she's shredding the MOU³ and reinstating the NICS ammunition background check⁴.
 - c) There's no such thing. The Defendants are eager to be in the limelight and use the anti-Second Amendment rhetoric to get there, but it wastes time and tax-payer money, and it forces us to have to file a lawsuit to mop up the mess.

³ Official website of the Governor of New York, "Governor Hochul Signs Landmark Legislation to Strengthen Gun Laws and Bolster Restrictions on Concealed Carry Weapons in Response to Reckless Supreme Court Decision" (July 1, 2022) available at <https://www.governor.ny.gov/news/governor-hochul-signs-landmark-legislation-strengthen-gun-laws-and-bolster-restrictions>.

⁴ NY Pen §400.03(6).

- d) There was only, I believe, one lawsuit in 2013 after the “SAFE Act.” Now, there’s more than half a dozen, plus the County Legislatures, Clerks, and Sheriffs are speaking out. This tells you how much worse the new laws really are.
- e) Since September 1, 2022, I’m writing down the name, address, and occupation of people buying ammunition. There’s no more information in the new law than this. The Defendant NYSP haven’t issued any forms or a directive on what to do with the information.
- f) We FFLs are in limbo, again. The ATF can’t let the Defendants piggy-back into their NICS system. The NYS Police don’t have the skills or the manpower to carry out an ammunition background check.

26. What information the Defendant NYS Police does publish is inadequate to understand the new laws. By contrast, federal firearms law is simple and straightforward, and the ATF is constantly writing and publishing new materials to assist comprehension and how to apply it to my business.

27. **The Defendants Have Shifted New York Far from the Past 100 Years.** Historically, New York State has not required any (zero) firearms training as part of a concealed carry permit. In general, the concealed carry licensing system was left to a sort of “home rule” where the County Clerk and the County Sheriff, and possibly some judges, would arrive at an approach and would publish those requirements and forms, they’d get out into the communities and speak at different events, and you’d see the County Clerk’s Office at local gun shows to process handgun coupons and license amendments and deletions, and county officials were readily available for questions and to ask questions of FFLs.

28. Similarly, I can sell my inventory pretty much all around the country under my federal license, which recognizes the inter-state nature of the firearms industry since prior to the adoption of the Gun Control Act in 1968. I do have out-of-state customers who come into my shop and I do know how to perform FFL-to-FFL transfers. But, why would I keep that inventory in my shop and display to customers what they cannot buy. The limitations put on the Second Amendment in New York through the new laws will end up having inter-state repercussions, if the new laws are not halted.
29. The granular arguments presented through the Complaint and through the additional “Declarations” of my Co-Plaintiffs I, too, can cover. But if I have the opportunity to say one thing to the Court I would like to express *why* this case matters to me. I’m nearly 65. I’ve been in this industry my whole life. I don’t want to be driven out of it by the Defendants, but that is about to become the inevitable, if we don’t achieve immediate help from the Court.
30. I’m here because of my granddaughters. A critical *why* is because many Americans before me fought to protect and secure our Civil Rights for “future generations,” of which I’m one. It’s now my turn to try to stabilize the situation on the ground, here in New York, against these new laws by the Defendants. This entire chapter is upside-down of how to do things properly. I’m an FFL. I’m compliance-minded. I want to stay in business and when I close the door to my shop on a day of my choosing, I want to do it with a smile upon my face that the past fifty years I’ve made a contribution. I want to know I’ve fulfilled my responsibilities that accompany the rights I’ve been blessed to exercise, and that my granddaughters will have that same opportunity.

Dated: November 7, 2022

John A. Hanusik

John Hanusik, individually
and as the Owner of A.G.A. Sales
an FFL-01, Dealer in Firearms